

VOLUNTARY COMPLIANCE AGREEMENT

between

THE OFFICE FOR CIVIL RIGHTS

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

and

**NORTH CAROLINA DEPARTMENT OF HEALTH
AND HUMAN SERVICES**

Transactional No: 01-00431 (OCR Reference No: 04-01-700)

I. Background

- A. The parties to this Voluntary Compliance Agreement (Agreement) are the North Carolina Department of Health and Human Services (NCDHHS) and the Office for Civil Rights of the United States Department of Health and Human Services (OCR). NCDHHS is the State agency responsible for administering various federally funded benefit programs including the Aging, Services for the Blind, Child Development, Services for the Deaf and Hard of Hearing, Medical Assistance, Mental Health, Developmental Disabilities and Substance Abuse, Minority Health and Health Disparities, Public Health, Rural Health Development, Social Services, Vital Records and Vocational Rehabilitation.
- B. As a recipient of Federal financial assistance, NCDHHS is subject to title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d et. seq. (title VI), and implementing regulation as found at 45 C. F. R. Part 80. Title VI prohibits recipients of Federal financial assistance from discriminating on the basis of race, color, or national origin. Title VI applies to both intentional discrimination and policies, practices or procedures that have a disparate impact on the basis of race, color, or national origin. In health and human service programs, recipients' failure to take reasonable steps in certain circumstances to ensure that individuals who are limited English proficient (LEP) have meaningful access to their programs may constitute discrimination on the basis of national origin, in violation of title VI.
- C. OCR is conducting a compliance review of the NCDHHS to determine whether the agency is instituting reasonable measures to ensure that its LEP clients, and/or, potential clients, have meaningful access to its various programs and activities. During the course of the subject review, OCR is examining whether NCDHHS utilizes appropriate policies, procedures, and practices to meet its obligations in this respect as required under title VI and implementing regulation.

for conducting pre- and post- eligibility determinations, service coordination and actual service delivery. Specifically, OCR conducted on site reviews of the Departments of Social Services and Health Departments in Chatham, Randolph, Johnston, Wake, Forsyth and Burke counties.

- D OCR's compliance review of the above-named counties revealed several areas of concern regarding the overall ability of national origin minorities who are LEP to access health and social services meaningfully. In order to resolve these matters expeditiously and without further burden or expense of investigation or litigation, NCDHHS accepts the terms stipulated in this Voluntary Resolution Agreement ("Agreement") and affirms its assurance of compliance with Title VI and its implementing regulations.

II General Provisions

- A. This Agreement shall become effective on the date that it is signed by OCR.
- B. This Agreement shall not be construed as an admission or evidence that NCDHHS has not complied with the requirements of Title VI or its implementing regulations.
- C. Nothing in this Agreement shall preclude OCR from conducting any other complaint investigation or compliance review of NCDHHS that is unrelated to the subject of this Agreement.
- D. NCDHHS shall not retaliate against, intimidate, threaten, coerce or discriminate against any person who, in any manner, has assisted with or participated in the investigation of the issues addressed in this Agreement.
- E. This Agreement constitutes the entire understanding of the parties regarding the issues of concern raised in the complaint. Any other statement, promise or understanding that is not contained in this Agreement shall not be enforceable.
- F. This Agreement may be modified by mutual agreement of the parties in writing.
- G. OCR places no restriction on the publication of the terms of this Agreement. OCR may be required to release the Agreement and all related materials to any person upon request consistent with the requirements of the Freedom of Information Act, 5 U.S.C. §552, and its implementing regulation, 45 C.F.R. Part 5.
- H. The signer of this document represents that (s)he is authorized to bind NCDHHS to the terms of this Agreement.

III Specific Provisions

- A. Effective May 2003, NCDHHS adopted the DHHS Title VI Language Access Policy, (hereinafter LEP Policy) which policy is attached hereto as Exhibit A. This policy was developed by NCDHHS, with input from a community task force, and reflects NCDHHS' best judgment regarding how to meet the language needs of its diverse and growing national origin minority populations who are LEP.
- B. NCDHHS shall undertake all steps necessary to complete implementation of the LEP Policy within one (1) year from the effective date of this Agreement.
- C. Beginning ninety (90) days from the effective date of this Agreement, the NCDHHS shall submit quarterly reports to the OCR detailing its efforts to implement the DHHS Title VI Policy, including, but not limited to the following:
 - 1. Dissemination of the DHHS Title VI Policy (how, when and to whom with sample copies).
 - 2. Copies of any instructions and time frames to NCDHHS Divisions/Institutions and local entities for completion of Language Access Plans. .
 - 3. Confirmation, by name, date, division, institutions, office, local covered entity, etc., regarding the completion of each Language Access Plan including the identification of the individual who is responsible for implementing the activities related to the plan.
 - 4. Copies of all Language Access Plans developed by local entities in Chatham, Randolph, Johnston, Wake, Forsyth and Burke counties.
 - 5. Copies of all annual compliance reports prepared pursuant to Section VI.B.of the DHHS Title VI Language Access Policy.
 - 6. Copies of all quarterly monitoring reports submitted to the Department pursuant to Section VI.C.1.
 - 7. Copies of all "special reviews" conducted pursuant to Section VI.C.2.
- D. In reliance upon the promises made herein by NCDHHS, OCR shall suspend

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further administrative action in TR 01-00437¹ and TR 01-00459² for a period of one year from the date of execution of this Agreement, subject to NCDHHS' performance of all obligations under the terms of this Agreement. If, after one year, NCDHHS has complied with the terms of this Agreement, OCR shall administratively close the above-listed cases.

- E. OCR agrees to bring to the attention of NCDHHS any complaint received by OCR within one (1) year of the execution of this Agreement against NCDHHS or its Divisions/Institutions or local entities which involves matters addressed herein in order to attempt informal resolution before formal investigative activity is initiated. If resolution cannot be achieved through informal means within 30 days, OCR shall initiate a formal investigation of the complaint.
- F. NCDHHS agrees, for two (2) years following the execution of this Agreement, to bring to the attention of OCR any changes it proposes to make in its "DHHS Policy on the Prohibition Against National Origin Discrimination As it Affects Persons with Limited English Proficiency." OCR shall have 30 days to review the changes and to provide NCDHHS with comments.

IV. Monitoring and Enforcement

- A. The parties agree that if OCR determines that NCDHHS has materially breached any provisions of this Agreement, OCR shall promptly notify

¹TR 01-00437 includes the compliance review of the North Carolina Department of Health and Human Services, and the reviews of Wake, Randolph, Johnston, Chatham and Forsyth County Departments of Health and Departments of Social Services.

²TR 01-00459 includes the compliance review of the Burke County Department of Social Services.

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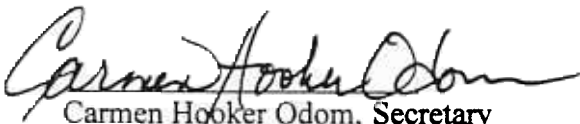
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NCDHHS and give it thirty (30) days to implement corrective action to overcome such a breach. In the event that NCDHHS fails or refuses to implement correction action within thirty (30) days, OCR reserves the right to set aside this Agreement, reopen its compliance reviews, issue formal findings and pursue action to enforce Title VI.

- B. NCDHHS agrees to retain the records and to provide the written documentation required under this Agreement. NCDHHS also agrees to provide other information as may be requested and necessary to assure OCR that the provisions of this Agreement have been fulfilled.
- C. Failure by OCR to enforce any provision or deadline contained herein shall not be construed as a waiver of OCR's right to enforce any provision or other deadlines contained in this Agreement.

V. Signatures

The following parties enter into this Agreement.



Carmen Hooker Odom, Secretary
North Carolina Department of
Health and Human Services



Roosevelt Freeman
Regional Manager
Office for Civil Rights

Date: 10/6/03

Date: 10/14/03